

FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY

Budget Summary							
Fund	2000-01 Base Year Doubled	2001-03 Governor	2001-03 Jt. Finance	2001-03 Legislature	2001-03 Act 16	Act 16 Change Over <u>Base Year Doubled</u>	
						Amount	Percent
SEG	\$0	\$216,700	\$216,700	\$216,700	\$216,700	\$216,700	N.A.

FTE Position Summary

There are no state authorized positions for the Fox River Navigational System Authority.

Budget Change Items

1. CREATION OF THE FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY [LFB Paper 445]

Governor: Create a Fox River Navigational System Authority to rehabilitate, repair, replace, operate, and maintain the navigational system on the Fox River. The system refers to 17 locks and about 94 acres of federal land along the Fox River from Lake Winnebago to Green Bay. Three locks are currently operational and one is permanently sealed as a sea lamprey barrier. The Authority would be created upon the transfer of the navigational system to the state by the U.S. Army Corps of Engineers and would replace both the Fox River Management Commission and the Fox-Winnebago Regional Management Commission.

Under current law, the Fox-Winnebago Regional Management Commission would have replaced the Fox River Management Commission upon receipt by the state of federal funding for the restoration of the locks system. Under the bill, the Fox River Navigational System Authority would replace the Fox River Management Commission after the federal land has been transferred to the State and the State and the Authority enter into a lease for the navigational system property. All assets, liabilities, personal property, contracts, policies and procedures of the Commission would transfer to the Authority on the day after the lease is signed. In case of disagreement the DOA Secretary would determine the matter.

The Fox River Navigational System Authority would be governed by a nine-member board of directors consisting of the Secretaries of the Departments of Natural Resources and Transportation, and the Director of the State Historical Society (or their designees) as well as six individuals appointed by the Governor for three-year terms. The initial term of three appointed members would expire on July 1, 2004, and the remaining three on July 1, 2005. Board members would not be paid; however, they would be reimbursed for expenses incurred in the performance of their duties (including travel). The chairperson would be elected annually by the board. Five voting members of the board of directors would constitute a quorum, and the board would decide by majority rule, unless the bylaws of the Authority require a larger number. The board would be responsible for appointing a non-board member as the Authority's chief executive officer and determine his or her compensation. The Authority may delegate, by resolution, to one or more of its members or to its executive director any powers or duties that it considers proper. The board would be required to designate an individual to keep a record of the proceedings of the Authority, the minutes of meetings, and its official seal.

Require the Authority to take over the rehabilitation, repair, replacement, operation, and maintenance of the Fox River navigational system after the transfer of the system to the state from the federal government. The navigational system does not include dams on the Fox River. After the system has been transferred to the state, the state would enter into a lease with the Authority (overseen by the Department of Administration) to transfer the system to the Authority for nominal consideration. The Secretary of DOA would determine the amount of the rental payments. The Authority would be prohibited from subletting any part of the navigational system without the approval of the Department of Administration.

The Authority would not be required to submit plans for rehabilitation projects to the Building Commission for approval; in addition, the Authority could permit a privately-owned or operated facility to be constructed on state-owned land without the Commission's approval. Any building constructed by the Authority would be required to comply with all state laws and regulations, but would be exempted from local ordinances other than zoning. DOA would review and approve the design and specifications of construction projects and have review and compliance duties during construction. The Authority would be able to enter into contracts with third parties as necessary for the rehabilitation, repair, replacement, operation, or maintenance of the navigational system. All construction contracts entered into by the Authority would be subject to state anti-discrimination, prevailing wage and other labor management standards. Any activity or project involving the navigational system, including abandonment, would be exempt from any permit or approval requirements of Wisconsin Statutes Chapter 30 (Navigable Waters, Harbors and Navigation) or 31 (Regulation of Dams and Bridges).

The federal government is expected to initially provide \$10 million upon transfer of the Locks system. In addition, the Authority would be eligible to receive federal matching funds for monies provided by the state to the Authority. Require the DNR to set aside from the recreational boating aids grant program \$400,000 annually for seven fiscal years (\$2.8 million in total) to meet the state's match funding requirement. Further, require the DNR to release the

set-aside funding on an annual basis in amounts to match the amounts raised by nonprofit corporations. In addition, the Authority would receive any revenue raised from user fees for services provided by the Authority to operators of watercraft on the navigational system.

In order to receive state funding, require the Authority to contract with one or more nonprofit corporations to provide marketing and fundraising services. The funds raised by these corporations would provide matching amounts to state dollars, and would be used for the rehabilitation and repair of the Locks system. Require all corporations contracting with the authority to submit an annual audited financial statement of the amount raised by the corporation each fiscal year. The goal of the corporations would be to raise \$2,750,000 of local or private funding for the rehabilitation and repair of the navigational system. The Authority may incur debt, but would be prohibited from issuing bonds to raise funding for the Locks system.

Allow the nonprofit corporations to invest the funding received by the Authority for the rehabilitation and repair of the navigational system. Require that these corporations be based in one or more of the counties in which the navigational system is located.

An authority is an entity with a board of directors that is established by state law but that is not a state agency. However, the Authority would be considered a state agency in the following respects: (a) it would be required to comply with the open records and open meetings laws; (b) it would be subject to the lobbying regulation law to the same extent as state agencies; (c) the members of its board of directors and its chief executive officer would be subject to the code of ethics for state public officials; (d) it would be exempt from the sales and use tax and from property taxes; (e) its employees would receive state health and retirement benefits; and (f) its employees would be subject to laws prohibiting political activities by state employees while engaged in official duties.

The Authority would differ from a state agency in several ways: (a) it would approve its own budget without going through the state budgetary process; (b) it would hire its own staff outside of the state hiring system; (c) it would not be subject to statutory administrative rule making procedures, including requirements for legislative review of proposed rules; (d) it would keep its own operating fund in its own account outside of the state treasury; and (e) the Department of Justice would not represent the Authority, and the Authority would instead retain its own legal counsel.

Require the Authority to submit a management plan to DOA that addresses the costs of and funding for the rehabilitation, repair, replacement, operation, and maintenance of the navigational system and describes how the Authority would manage its funds to insure that there would be sufficient funds available to abandon the navigational system if its operation were no longer feasible. Require the Authority to submit the initial plan within 180 days after the date on which the state and the authority enter into their initial lease, and require the authority to update the plan upon the request of DOA. State funding for rehabilitation (\$400,000 annually for seven years) would be available beginning in the first fiscal year after submission of the plan. The Authority would be required to submit an audited financial statement to DOA each fiscal year identifying funding received from DNR, contributions, and other funding

sources. Should the operation of the system become infeasible, the Authority would be required to submit a plan for its abandonment. Before abandoning the system, DOA and DNR would be required to determine that the abandonment plan would preserve the public rights in the Fox River and would ensure safety.

Require the Authority to maintain the sea lamprey barrier at the Rapide Croche lock according to DNR specifications. If the Authority would decide to construct a means to transport watercraft around the Rapide Croche lock, require them to develop a plan to control sea lampreys and other aquatic nuisance species to prevent them from moving upstream. The Authority would be required to submit the plan to DNR and receive the Department's approval before implementing the plan.

Joint Finance: Modify the Authority's exemption from permits under chapters 30 and 31 of the statutes to only apply to dredging and other work associated with the actual lock and spillway structure but not the canal or the body of the riverway. The Authority would be required to obtain permits for additional dredging or other work involving the canals or the body of the Fox River. In addition, specify that the Legislative Audit Bureau and the Legislative Fiscal Bureau be given access to records and information from the Fox River Navigational System Authority. Further, specify that of the six individuals appointed by the Governor to serve on the Board of Directors of the Authority, two shall be from Brown County, two from Outagamie County, and two from Winnebago County. Require that three of the appointed members (one from each of the counties) reside in a municipality in which a Fox River navigational system lock is located. Finally, require Senate confirmation of the Governor's appointments to the Board of Directors of the Authority.

Senate: Delete provisions.

Conference Committee/Legislature: Restore provisions of the Governor and Joint Finance.

[Act 16 Sections: 86, 105 thru 107, 112, 114g, 114r, 131, 132, 180, 189 thru 192, 194, 202, 228, 229b, 249, 253, 254, 256, 267, 299 thru 306, 310, 312, 319, 321, 322, 381, 382, 385, 388, 605, 625 thru 627, 629, 1039, 1200, 1332, 1334 thru 1339, 1391, 2109, 2174, 2246, 2434, 2557, 2558, 2559, 2575, 3038, 3128, 3208, 3220, 3769 and 9137(2)]

2. AUTHORITY OPERATIONS COSTS [LFB Paper 445]

SEG	\$216,700
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Governor: Provide \$90,000 in 2001-02 and \$126,700 in 2002-03 from the water resources account of the conservation fund for costs of the Authority and to operate the portion of the navigational system currently operated by the Fox River Management Commission. Funding would be transferred from the Fox River Management Commission appropriation in DNR.

Senate: Delete provisions authorizing the creation of the Fox River Navigational System Authority. (Segregated funds of \$90,000 in 2001-02 and \$126,700 in 2002-03 from the water

resources account would remain in the DNR appropriation for the Fox River Management Commission).

Conference Committee/Legislature: Restore provisions.

[Act 16 Sections: 625, 626, 629 and 3128]